

Emergency Supp. Approp. Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 - Sec. 3001 (Special IG for Iraq Reconstruction)

[Section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004]

[Public Law 108–106, approved Nov. 6, 2003]

[As Amended Through P.L. 117–286, Enacted December 27, 2022]

[Currency: This publication is a compilation of the text of Public Law 108–106. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>]

[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).]

TITLE III—SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

SEC. 3001. [5 U.S.C. App. note to sec. 8G of Public Law 95–452] SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.¹

(a) PURPOSES.—The purposes of this section are as follows:

(1) To provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Iraq.

(2) To provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to—

(A) promote economy efficiency, and effectiveness in the administration of such programs and operations; and

(B) prevent and detect waste, fraud, and abuse in such programs and operations.

¹ Section 1054(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2397) provides as follows:

SEC. 1054. MODIFICATION OF AUTHORITIES RELATING TO THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.

(a) DUTIES.—For purposes of carrying out the duties of the Special Inspector General for Iraq Reconstruction under section 3001(f) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1235 et seq.; 5 U.S.C. App., note to section 8G of Public Law 95–452), any United States funds appropriated or otherwise made available for fiscal year 2006 for the reconstruction of Iraq, irrespective of the designation of such funds, shall be deemed to be amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.

(3) To provide for an independent and objective means of keeping the Secretary of State and the Secretary of Defense fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress for corrective action.

(b) OFFICE OF INSPECTOR GENERAL.—There is hereby established the Office of the Special Inspector General for Iraq Reconstruction.

(c) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—(1) The head of the Office of the Special Inspector General for Iraq Reconstruction is the Special Inspector General for Iraq Reconstruction (in this section referred to as the “Inspector General”), who shall be appointed by the Secretary of Defense, in consultation with the Secretary of State.

(2) The appointment of Inspector General shall be made solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) The nomination of an individual as Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

(4) The Inspector General shall be removable from office in accordance with the provisions of section 403(b) of title 5, United States Code.

(5) For purposes of section 7324 of title 5, United States Code, the Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) The annual rate of basic pay of the Inspector General shall be the annual rate of basic pay provided for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) ASSISTANT INSPECTORS GENERAL.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations supported by amounts appropriated or otherwise made available for the reconstruction of Iraq; and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

(e) SUPERVISION.—(1) Except as provided in paragraph (2), the Inspector General shall report directly to, and be under the general supervision of, the Secretary of State and the Secretary of Defense.

(2) No officer of the Department of Defense, the Department of State, or the United States Agency for International Development shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation related to amounts appropriated or otherwise made available for the reconstruction of Iraq or from issuing any subpoena during the course of any such audit or investigation.

(f) DUTIES.—(1) It shall be the duty of the Inspector General to conduct, supervise, and coordinate audits and investigations of the treatment, handling, and expenditure of amounts appropriated or otherwise made available for the reconstruction of Iraq, and of the programs, operations, and contracts carried out utilizing such funds, including—

(A) the oversight and accounting of the obligation and expenditure of such funds;

(B) the monitoring and review of reconstruction activities funded by such funds;

(C) the monitoring and review of contracts funded by such funds;

(D) the monitoring and review of the transfer of such funds and associated information between and among departments, agencies, and entities of the United States and private and nongovernmental entities; and

(E) the maintenance of records on the use of such funds to facilitate future audits and investigations of the use of such funds.

(2) The Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under chapter 4 of title 5, United States Code.

(4) In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of, each of the following:

(A) The Inspector General of the Department of State.

(B) The Inspector General of the Department of Defense.

(C) The Inspector General of the United States Agency for International Development.

(g) POWERS AND AUTHORITIES.—(1) In carrying out the duties specified in subsection (f), the Inspector General shall have the authorities provided in section 406 of title 5, United States Code, including the authorities under subsection (e) of such section.

(2) The Inspector General shall carry out the duties specified in subsection (f)(1) in accordance with section 404(b)(1) of title 5, United States Code.

(h) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—(1) The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, and may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section).

(2) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to ex-

ceed the equivalent rate prescribed for grade GS-15 of the General Schedule by section 5332 of such title.

(3) To the extent and in such amounts as may be provided in advance by appropriations Acts, the Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4)(A) Upon request of the Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.

(B) Whenever information or assistance requested by the Inspector General is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary of State or Secretary of Defense, as appropriate, and to the appropriate committees of Congress without delay.

(5) The Secretary of State or Secretary of Defense, as appropriate, shall provide the Inspector General with appropriate and adequate office space within the Department of Defense or at appropriate locations of the Department of State in Iraq, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(i) REPORTS.—(1) Not later than 30 days after the end of each fiscal-year quarter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing, for the period of that quarter and, to the extent possible, the period from the end of such quarter to the time of the submission of the report, the activities during such period of the Inspector General and the activities under programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Iraq. Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with reconstruction and rehabilitation activities in Iraq, including the following:

(A) Obligations and expenditures of appropriated funds.

(B) A project-by-project and program-by-program accounting of the costs incurred to date for the reconstruction of Iraq, together with the estimate of the Department of Defense, the Department of State, and the United States Agency for International Development, as applicable, of the costs to complete each project and each program.

(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations, and any obligations or expenditures of such revenues.

(D) Revenues attributable to or consisting of foreign assets seized or frozen, and any obligations or expenditures of such revenues.

(E) Operating expenses of agencies or entities receiving amounts appropriated or otherwise made available for the reconstruction of Iraq.

(F) In the case of any contract described in paragraph (2)—

(i) the amount of the contract or other agreement;

(ii) a brief discussion of the scope of the contract or other agreement;

(iii) a discussion of how the contracting department or agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers; and

(iv) the justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(2) A contract described in this paragraph is any major contract or other agreement that is entered into by any department or agency of the United States Government that involves the use of amounts appropriated or otherwise made available for the reconstruction of Iraq with any public or private sector entity for any of the following purposes:

(A) To build or rebuild physical infrastructure of Iraq.

(B) To establish or reestablish a political or societal institution of Iraq.

(C) To provide products or services to the people of Iraq.

(3) The Inspector General shall submit to the appropriate committees of Congress semiannual reports meeting the requirements of section 405 of title 5, United States Code. The first such report for a year, covering the first six months of the year, shall be submitted not later than July 31 of that year, and the second such report, covering the second six months of the year, shall be submitted not later than January 31 of the following year.

(4) The Inspector General shall publish each report under this subsection in both English and Arabic on the Internet website of the Department of State and of the Department of Defense.

(5) Each report under this subsection may include a classified annex if the Inspector General considers it necessary.

(6) Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(j) REPORT COORDINATION.—(1) The Inspector General shall also submit each report under subsection (i) to the Secretary of State and the Secretary of Defense.

(2)(A) Not later than 30 days after receipt of a report under paragraph (1), the Secretary of State or the Secretary of Defense may submit to the appropriate committees of Congress any comments on the matters covered by the report as the Secretary of State or the Secretary of Defense, as the case may be, considers appropriate.

(B) A report under this paragraph may include a classified annex if the Secretary of State or the Secretary of Defense, as the case may be, considers it necessary.

(k) TRANSPARENCY.—(1) Not later than 60 days after the date of the submittal to Congress of a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of such report available to the public upon request, and at a reasonable cost.

(2) Not later than 60 days after the date of the submittal to Congress under subsection (j)(2) of comments on a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of such comments available to the public upon request, and at a reasonable cost.

(l) WAIVER.—(1) The President may waive the requirement under paragraph (1) or (3) of subsection (i) for the inclusion in a report under such paragraph of any element otherwise provided for under such paragraph if the President determines that the waiver is justified for national security reasons.

(2) The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which the reports required under paragraph (1) or (3) of subsection (i) are submitted to Congress. The reports required under paragraph (1) or (3) of subsection (i) shall specify whether waivers under this subsection were made and with respect to which elements.

(m) DEFINITIONS.—In this section—

(1) the term “appropriate committees of Congress” means—

(A)² the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(B)² the Committees on Appropriations, Armed Services, Foreign Affairs, and Oversight and Government Reform of the House of Representatives; and

(2) the term “amounts appropriated or otherwise made available for the reconstruction of Iraq” means amounts appropriated or otherwise made available for any fiscal year—

(A) to the Iraq Relief and Reconstruction Fund, the Iraq Security Forces Fund, and the Commanders’ Emergency Response Program authorized under section 1202 of the National Defense Authorization for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3455–3456); or

(B) for assistance for the reconstruction of Iraq under—

(i) the Economic Support Fund authorized under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

(ii) the International Narcotics Control and Law Enforcement account authorized under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291); or

(iii) any other provision of law.

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(n) FUNDING.—(1) Of the amounts appropriated for fiscal year 2004 for the Operating Expenses of the Coalition Provisional Authority in title II of this Act, \$75,000,000 shall be available to carry out this section.

(2) The amount available under paragraph (1) shall remain available until expended.

(o) TERMINATION.—(1) The Office of the Inspector General shall terminate 180 days after the date on which amounts appropriated or otherwise made available for the reconstruction of Iraq that are unexpended are less than \$250,000,000.

(2) The Special Inspector General for Iraq Reconstruction shall, prior to the termination of the Office of the Special Inspector General under paragraph (1), prepare a final forensic audit report on all amounts appropriated or otherwise made available for the reconstruction of Iraq.